IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION NO. 4:14-CR-58-H

NITED STATES OF AMERICA,)	
,	,	
)	
)	
)	
V.)	
)	
)	ORDER
DAVID DEVONNE BATTISTE,)	
)	
Defendant.)	

This matter is before the court sua sponte. On October 6, 2015, this court sentenced defendant to a term of imprisonment of 327 months, specifically 207 months on count one and 120 months on count two. Upon further review of the matter, the court notes that count one carries a statutory maximum of 180 months. Therefore, the distribution of the sentence between the two counts was improper, although the overall term of imprisonment was within both the statutory and guideline maximums.

Rule 35(a) of the Federal Rules of Criminal Procedure provides that a "court may correct a sentence that resulted from arithmetical, technical, or other clear error" within 14 days of

sentencing. Being within the time frame allowed by Rule 35(a), the court hereby corrects this matter by setting aside the oral pronouncement of sentencing and rescheduling this matter for sentencing at this court's November 10, 2015, term. Defendant shall remain in custody under the same terms and conditions as ordered prior to the October 6, 2015, pronouncement of sentencing.

This 13th day of October 2015.

Malcolm J. Howard

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Senior United States District Judge

At Greenville, NC #26